

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

Hollis J. Larson,

Civil No. 09-3600 (PAM/AJB)

Plaintiff,

v.

ORDER

Wendy Goodman, Scott
Goodman, Richard Spicer,
Thomas Bibus, Kevin Mark,
First Name Unknown Tulle,
Stephen Betcher, Yvonne
Black, Erin Kuester, Lori
Swanson, Tibor Gallo,
William Hutton, Brian
Roussell, Pete Badker,
Josh Stehr, Thomas Wolner,
Douglas Bayley, County of
Goodhue, Minnesota,

Defendants.

This matter is before the Court on the Report and Recommendation (“R&R”) of Chief Magistrate Judge Arthur J. Boylan dated September 28, 2010. The R&R recommended dismissal of much of Plaintiff’s First Amended Complaint. Plaintiff filed timely objections to the R&R, and also filed a “Motion for Leave to Amend Complaint a Second Time” and a “Demand for Allocution.” For the reasons that follow, the Court denies Plaintiff’s objections, adopts the R&R, and denies the Motion to Amend.

The long history of Plaintiff’s state and federal court litigation are thoroughly set forth in Chief Magistrate Judge Boylan’s R&R. The Court will not repeat that history here.

According to statute, the Court must conduct a de novo review of any portion of the Magistrate Judge's opinion to which specific objections are made. 28 U.S.C. § 636(b)(1)(C); Fed. R. Civ. P. 72(b); D. Minn. L.R. 72.2(b). Rather than making specific objections, however, Plaintiff relies on his responses to Defendants' Motions to Dismiss, responses that the Magistrate Judge deemed insufficient to counter the Motions. He also contends that his Motion for Partial Summary Judgment should be granted for the reasons set forth in the Motions, and does not address the substance of the R&R.

Chief Magistrate Judge Boylan recognized that Plaintiff cannot maintain a cause of action for violations of 42 U.S.C. §§ 1985 or 1986 unless he can establish discrimination against a suspect class, such as race-based animus. Plaintiff now contends that his civil-rights conspiracy claims are founded on the "class-based animus towards the pro se, mentally ill, committed sex offender plaintiff." (Obj. at 2.) Moreover, he accuses the Magistrate Judge of engaging in the same class-based animus of which he accuses various Defendants. (Id.)

No court has recognized, for the purposes of a constitutional claim, a suspect class consisting of pro se litigants, mentally ill persons, or civilly committed sex offenders. Plaintiff has failed to establish a conspiracy to violate his constitutional rights and the R&R correctly recommended dismissal of those claims.

Plaintiff's objections are nothing more than hyperbole and vitriol. He accuses the Magistrate Judge of lying and of "willfully, maliciously, and sadistically[] prejudic[ing] plaintiff." (Obj. at 6.) It is apparent that he believes there is a wide-ranging conspiracy, from

his own sister through the state and federal court system, to deprive him of his rights. But he has utterly failed to plausibly allege anything approaching such a conspiracy. This is not the first time the Court has recommended that Plaintiff cease casting aspersions on the Court and its staff with no factual basis. (See Order at 6 n.1, Larson v. Carlson, No. 09-cv-3070 (D. Minn. Apr. 20, 2010) (Docket No. 27) (noting that Plaintiff's "inflammatory language detracts from the legitimacy of his claims").) Plaintiff's apparently strong belief in a conspiracy does not entitle him to relief in federal court.

Plaintiff has failed to establish that he is entitled to any relief against the State Defendants, or against any Defendants for violations of §§ 1985 or 1986, or for declaratory judgment. His request to amend the Complaint to substitute the correct name of the Sheriff of Goodhue County is, however, granted.

Accordingly, **IT IS HEREBY ORDERED that:**

1. The Report and Recommendation (Docket No. 49) is **ADOPTED**;
2. Plaintiff's Motion for Temporary State (Docket No. 20) is **DENIED**;
3. The State Defendants' Motion to Dismiss (Docket No. 16) is **GRANTED** as follows:
 - a. All claims against all Defendants premised on 42 U.S.C. §§ 1985 and 1985, and the claim for declaratory relief, are **DISMISSED with prejudice**;
 - b. All claims against the State Defendants (Richard Spicer, Thomas Bibus, Kevin Mark, Yvonne Black, Lori Swanson, Tibor Gallo, and Douglas

Bayley) are **DISMISSED with prejudice**;

c. All claims against Erin Kuester and Stephen Betcher are **DISMISSED with prejudice**;

4. Plaintiff's Motions for Partial Summary Judgment (Docket No. 28, 33) are **DENIED**, and all claims against Defendants Scott and Wendy Goodman are **DISMISSED with prejudice**;

5. The State Defendants' second Motion to Dismiss (Docket No. 31) is **DENIED as moot**; and

6. Plaintiff's Motion for Leave to Amend Complaint a Second Time (Docket No. 50) is **GRANTED** for the limited purpose of substituting the correct name of the Sheriff of Goodhue County.

Dated: November 3, 2010

s/Paul A. Magnuson
Paul A. Magnuson
United States District Court Judge